

Rec'd PCT/PTO 22 FEB 2001

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

<b>Inventor(s):</b>	POPOVSKY, Frank
<b>Title:</b>	PRE-FILLED CONTAINER
<b>I.A. Filing Date:</b>	31 May 1999
<b>Ser. No.</b>	09/701,807

Attorney's Docket No. P40.2-9585

**Petition under 37 CFR § 1.47(b) for Filing by Assignee**

Applicant Astra Pharmaceuticals PTY. LTD. (hereinafter "ASTRA"), hereby petitions the Commissioner to accept the filing of the above-identified U.S. Patent Application by it, as the party to which the invention disclosed and claimed in said Patent Application has rightfully been assigned.

A Declaration is attached providing proof of the pertinent facts concerning the refusal of the inventor to join in the present application for patent and establishing that ASTRA is the owner and has sufficient proprietary interest in this matter to make application on behalf of and as agent for the inventor, along with a showing that such action is necessary to preserve the rights of the parties and to prevent irreparable damage.

The name and address of the inventor refusing to join in this application is as follows:

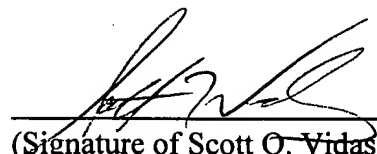
Frank Popovsky  
11 Patterson Street  
Tahmorr, New South Wales 2573, Australia

The invention was developed under an agreement with Popovsky and his employer, ASTRA and is the subject of an Agreement dated June 22, 1998 assigning all worldwide rights to the invention to ASTRA, a copy of the agreement is included herewith as **EXHIBIT A**. In addition, that Agreement obligated the inventor, Frank Popovsky, to sign any and all papers in support of patent applications, which would include the Declaration herein.

Frank Popovsky refuses to execute a Declaration which must be filed by January 22, 2001, or within an extension period under §1.136 as required by the Notification of Missing Requirements mailed December 22, 2000, a copy of which is enclosed herewith as **EXHIBIT B**. If this petition is not granted, the owner, ASTRA, will be irreparably harmed in that its United States Patent Application No. 09/701,807 will become abandoned, forfeiting its rights to the invention.

The required fee pursuant to 37 CFR §1.17(h) is enclosed along with a Declaration concerning pertinent facts and Power of Attorney.

Date: \_\_\_\_\_

  
\_\_\_\_\_  
(Signature of Scott Q. Vidas, attorney for Assignee)

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**Declaration Of Facts In Support Of Filing On Behalf Of Omitted Inventor  
(37 CFR 1.47(b))**

This declaration is made as to the exact facts which are relied upon to establish the diligent effort to secure the execution of the declaration by the omitted inventor for the above identified patent application before deposit thereof in the Patent and Trademark Office.

This declaration is being made by the assignee's attorney having knowledge of the facts recited herein.

**Identification Of Person Making This Declaration Of Facts**

Name of declarant: Scott Q. Vidas

Address of declarant: Vidas, Arrett & Steinkraus, P.A.  
6109 Blue Circle Drive, Suite 2000  
Minnetonka, MN 55343

Title of declarant: Attorney

**Last Known Address Of The Omitted Inventor**

Full name of omitted Inventor: Frank Popovsky

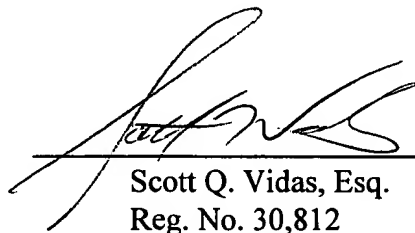
Last Known Address: 11 Patterson Street  
Tahmorr, New South Wales 2573, Australia

**Details Of Efforts To Reach Omitted Inventor**

1. The inventor, Frank Popovsky, signed a worldwide assignment agreement to the 1.47(b) Applicant Astra Pharmaceuticals PTY. LTD., shortly after filing the priority application PP3878 in Australia.
2. The inventor Popovsky was an employee of Afra Design PTY. LTD., (AFRA), Frank Popovsky together with AFRA acknowledged that the invention is the property of Astra Pharmaceuticals PTY. LTD. (ASTRA), and executed an Assignment to that effect.
3. Popovsky acknowledged in the Assignment Agreement that he would promptly execute any documents needed to obtain full right, title and interest in and to said invention for any patents or applications.
4. The above identified Application received a Notification Of Missing Requirements under 35 U.S.C. § 371 mailed 22 December 2000 requiring the declaration of the inventor by 22 January 2001, or later with a petition for extension pursuant to 37 CFR 1.136(a).
5. On February 8, 2001 I received a letter from Australian counsel for ASTRA indicating that Frank Popovsky continues to refuse to execute the required declaration. A copy of this letter is attached to this Declaration as **EXHIBIT C**.
6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date: \_\_\_\_\_

2/22/01

  
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Scott Q. Vidas, Esq.  
Reg. No. 30,812